

**The George Mason University Instructional Foundation, Inc.  
George Mason University  
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703-993-3100**

February 23, 2007

Ms. Marlene Dortch  
Secretary  
The Federal Communications Commission  
Washington, D.C., 20554

Dear Ms. Dortch:

**In Re: Reply Comments in DA 07-289 regarding Request  
for Waiver of Section 27.1233 of the Commission's Rules.  
Report and Order in WT Docket No. 03-66.**

On January 29, 2007 the Commission put The George Mason University Instructional Foundation's Waiver Request of January 5, 2005 on Public Notice and solicited Comments by February 13, 2007 and Reply Comments by February 23, 2007. In our 2005 filing, we requested a waiver of Section 27.1233 of the Commission's Rules to allow F Group BRS Station WHT659, licensed to the Foundation's wholly owned subsidiary and transmitting essentially the same programming as WHB 652 (our EBS station in Rosslyn, Virginia), to have its transition costs paid by the proponent in the Washington, D.C. BTA.

We noted that ours was a unique situation, and that BRS station WHT 659 began life in 1984 as ITFS station WHB 836. We also noted that the Temporary Fixed authorization for that very same F Group ITFS station -- KA 88816 is still licensed to the Foundation as an EBS authorization. It is interesting to note that at this point in the Washington, D.C. BTA transition, the mid-band channel of that Temporary Fixed F Group EBS station is currently operating 24/7 as an STL transmitting George Mason University courses for credit from our Fairfax campus to the mid band channel of EBS station WLX 728 in Shannondale, West Virginia. So our situation is very unique, sui generis, actually, and the grant of our requested waiver should not and will not open the floodgates for other BRS licensees seeking to have their transition costs paid by the proponent in their BTA.

As the Commission noted in its Public Notice regarding our waiver request, on July 19, 2006, Sprint Nextel Corporation filed a Transition Initiation Plan to transition the 2.5 GHz band in the Washington, D.C. BTA. The Commission also noted in the Public Notice that the licensee of WHT 659, the Foundation's wholly owned subsidiary F Corp,

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has entered into a long-term *de facto* control lease for WHT 659's UBS channels with a subsidiary of Sprint Nextel. What the Commission did not mention in the Public Notice is that the Foundation has entered into a long-term *de facto* lease with a subsidiary of Clearwire Corporation for the LBS channels of its EBS stations WHB 652 and WLX 728.

It should be clear then that both Sprint Nextel as the Transition Proponent for the Washington, D.C. BTA and Clearwire Corporation as a commercial operator in the Washington, D.C. BTA both have a special interest in this market and most assuredly in our Waiver Request as well. What is also clear is that Sprint Nextel and Clearwire (or anyone else for that matter) have not submitted any comments objecting to our Request by the February 13, 2007 deadline or in the ten days since. With no objections from anyone on the record, the Commission can and should grant the requested waiver so that the transition costs associated with this very unique BRS station are borne by the Proponent, and not by an educator.

For the reasons outlined in our initial Waiver Request and in these Reply comments, we believe that a waiver of the Rule at 27.1233 to allow, in this instance and under these unique circumstances a BRS station owned by an EBS licensee that basically repeats the programming carried on the EBS station to have its transition costs paid by the Proponent is in the public interest and should in this case be granted.

Respectfully submitted,

/s/

Michael R. Kelley, President

Filed with the FCC Electronic Filing System

Cc: Nancy Zaczek, John Schauble